

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Connect America Fund)	WC Docket No. 10-90
)	
Public Notice: Wireline Competition Bureau)	DA 12-1961
Seeks Comment on Areas Shown as)	DA 12-2001
Unserved on the National Broadband Map)	
for Connect America Phase I Incremental)	
Support)	

Reply Comments of Alaska Communications Systems

Alaska Communications Systems (“ACS”),¹ hereby submits these reply comments in response to the Public Notice (“Public Notice”)² issued by the Wireline Competition Bureau (“Bureau”) in the above-captioned proceeding. In these reply comments, ACS urges the Commission to clarify the intent and purpose of its efforts to validate the list of potentially unserved census blocks within the service areas of price cap carriers that are shown as unserved by broadband on the National Broadband Map.

In particular, ACS believes that the Commission should clarify that any changes it may adopt in this proceeding to reduce the list of unserved census blocks will apply only prospectively. Price cap carriers, including ACS have already spent considerable time and effort

¹ In these comments, “Alaska Communications Systems” signifies the operating subsidiaries of Alaska Communications Systems Group, Inc., which include the incumbent local exchange carriers (“ILECs”), ACS of Alaska, Inc., ACS of Anchorage, Inc., ACS of Fairbanks, Inc., and ACS of the Northland, Inc., as well as the additional operating subsidiaries, ACS Wireless, Inc., ACS Long Distance, Inc., ACS Internet, Inc., ACS Cable, Inc., Alaska Fiber Star, and WCI Cable. Together, these ACS companies provide retail and wholesale wireline and wireless telecommunications, information, broadband, and other services to residential and business customers in the State of Alaska and beyond, using ACS’s intrastate and interstate facilities.

² Public Notice, WC Docket No. 10-90, *Wireline Competition Bureau Seeks Comment on Areas Shown as Unserved on the National Broadband Map for Connect America Phase I Incremental Support*, DA 12-1961 (Wir. Comp. Bur., rel. Dec. 5, 2012) (“Public Notice”); see also Public Notice, WC Docket No. 10-90, *Wireline Competition Bureau Updates the List of Potentially Unserved Census Blocks in Price Cap Areas and Extends the Deadline for Comment on the List*, DA 12-2001 (Wir. Comp. Bur., rel. Dec. 10, 2012).

formulating investment plans to comply with the Commission's mandates regarding use of Connect America Fund Phase I frozen and incremental support. Indeed, in many cases, the purchase and deployment of broadband facilities pursuant to such investment plans is already underway, given the Commission's strict compliance timetables governing such support. The Commission should not now, at this late date, upset settled expectations and established budgets and project plans by curtailing the list of permissible locations where such investments may take place.

A. ACS Has Not Had an Adequate Opportunity to Evaluate the Claims of Additional Coverage Made by GCI and SPITwSPOTs

Although the Bureau collected electronic files containing the list of census blocks questioned by commenters in the initial comment round, it has not yet released those files to the public. Without these files, it has been difficult at best for other providers to make a meaningful assessment of the validity of these claims. Compounding this difficulty, the 15-day interval for preparing and filing reply comments, which also included a public holiday, sharply limited ACS's opportunity to conduct field testing or other verification procedures, which would be necessary to form a meaningful opinion as to the validity of the claims made by GCI and SPITwSPOTs.³

Thus, while ACS's reply comments here do not make any explicit challenge to those claims, the Bureau should not interpret this silence as ACS's agreement that they are valid. Rather, the Bureau should publish the list of affected census blocks electronically, and provide a further period for evaluation and testing of these claims.

³ GCI Comments at 1; SPITwSPOTs Comments at 4.

B. The Commission Should Not Supplant the Established Process for Updating the National Broadband Map

In response to the Bureau's Public Notice, many commenters appear to have chosen to submit updates to the December 2011 data shown on the National Broadband Map depicting purported increases in their respective broadband coverage since that map was published. GCI and SPITwSPOTs, for example, submitted comments that include maps showing census blocks that they purport currently to serve, but that the December 2011 map does not show that they serve. Neither commenter, however, alleges any error in the data shown on the December 2011 map. SPITwSPOTs, for example, explicitly acknowledges that its claims to serve area shown as unserved on the National Broadband Map are based on its use of "April 2012 State Broadband Initiative (SBI) data" recently published by Connect Alaska.⁴ Similarly, regarding the area GCI now claims to serve with broadband, it states that it "has not heretofore provided this data to the SBI contractor, Connect Alaska," but is doing so concurrently.⁵

ACS concurs that it is important to ensure that the coverage data shown on the National Broadband Map is accurate. Nevertheless, the Bureau should not allow its census block challenge process to supplant the established procedures of the National Telecommunications and Information Administration ("NTIA") for collecting and publishing updates to the National Broadband Map. NTIA already requires the recipients of grant awards under the State Broadband Data and Development ("SBDD") Grant Program, including Connect Alaska, to continually compile coverage data, and submit cumulative updates every six months through

⁴ SPITwSPOTs Comments at 5.

⁵ GCI Comments at 2.

2015.⁶ Through this process, NTIA already has assumed responsibility for collecting updates to these data and publishing semiannual revisions to the National Broadband Map.

ACS believes that, to the extent the Bureau staff “finds that the evidence demonstrates that it is more probable than not that the National Broadband Map inaccurately portrays coverage of a particular area,”⁷ the proper course would be to refer those findings to NTIA for its consideration of whether or not to incorporate them into a future update to the National Broadband Map, likely with the input of the state’s SBDD grant award recipient. By doing so, the Commission will fulfill the error correction goals of its challenge process, while continuing to maintain a single governing source for broadband coverage data. Were the Bureau merely to make adjustments to its own list of census blocks, in contrast, it would by definition create a set of coverage data in conflict with the National Broadband Map, leaving it to the user to speculate as to which is more accurate. Further, to the extent that the state’s SBDD grant award recipient may have previously considered or rejected a provider’s claims of coverage, the Bureau’s process may provide a “second bite at the apple,” and risk introducing persistent conflicts between the data shown on the National Broadband Map and that maintained by the Bureau.

⁶ National Telecommunications and Information Administration, State Broadband Data and Development Grant Program, *Notice of Funds Availability and Solicitation of Applications*, 74 Fed. Reg. 32545, 32552 n.26 (2009) (“Broadband mapping data should be updated at least on March 1 of each year (by submitting data as of December 31 of the previous year) and at least September 1 of each year (by submitting data as of June 30 of that year) For the purposes of this program, an update will be deemed to be a verification of existing data and a collection of any additional data reflecting the expansion or contraction of broadband availability since the previous data collection or update.”)

⁷ *Connect America Fund*, WC Docket No. 10-90, Further Notice of Proposed Rulemaking, FCC 12-138, 27 FCC Rcd 14566 (2012) (“*2013 CAF Phase I Incremental Support Further Notice*”), at ¶ 16 (2012).

C. The Commission Should Not Disturb Price Cap Carriers' Settled CAF Phase I Investment Plans

Since the Commission's adoption of the *USF/ICC Transformation Order*, price cap carriers and others have used the data in the National Broadband Map in formulating capital investment plans for future broadband coverage. They have done so because the Commission's CAF Phase I incremental and frozen support rules establish the National Broadband Map as the authoritative source of broadband coverage data establishing the areas eligible for such support. As the Commission recognized in its recent Further Notice of Proposed Rulemaking in this proceeding, "[t]he Commission relies on the National Broadband Map in many contexts, including as a tool to target funding appropriately in Phase I of the Connect America Fund."⁸

Thus, any changes the Bureau may adopt in this proceeding to reduce the list of unserved census blocks should apply only prospectively. The Commission has already distributed 2012 CAF Phase I incremental support based on investment plans that price cap carriers formulated – at the explicit behest of the Commission – based on the coverage data shown in the National Broadband Map. Further, the Commission's CAF Phase I frozen support rules require price cap carriers to spend 1/3 of their CAF Phase I frozen support in 2013 to build and operate broadband networks in areas not served by an unsubsidized competitor, again as shown on the National Broadband Map.⁹ With 2013 already well underway, price cap carriers have already developed capital investment plans based on the existing coverage data shown on the National Broadband Map.

⁸ 2013 CAF Phase I Incremental Support Further Notice, at ¶ 13.

⁹ *Connect America Fund*, WC Docket No. 10-90, Report and Order and Further Notice of Proposed Rulemaking, FCC 11-161, 26 FCC Rcd 17663 (2011) ("*USF/ICC Transformation Order*") (subsequent history omitted), at ¶ 103.

The Bureau should thus clarify that any changes it makes to reduce the list of unserved census blocks will not affect the compliance requirements governing use of CAF Phase I incremental support awarded in 2012, or CAF Phase I frozen support for 2013. Such a clarification would be consistent with the Commission's directive in the *2013 CAF Phase I Incremental Support Further Notice* to utilize such a challenge process to "allow interested parties to provide updates to the National Broadband Map for purposes of any **additional round** of Phase I funding."¹⁰ Similarly, the Bureau has previously established that broadband coverage shown on the National Broadband Map "at the time of acceptance" of CAF Phase I incremental support will govern compliance throughout the buildout period.¹¹

In contrast, if the Bureau makes changes to *augment* the list of unserved census blocks, such as those identified by ACS in its initial comments in this proceeding, the Bureau should permit carriers to meet their 2012 CAF Phase I incremental support and 2013 CAF Phase I frozen support broadband obligations by deploying broadband in those areas. As far as ACS can tell, the 1991 census blocks it identified were inadvertently omitted from the Bureau's list, and were in fact unserved in December 2011. Thus, it would be entirely consistent with the Commission's rules to permit ACS to meet its deployment obligations with service deployed within those census blocks.

Further, as ACS argued in its initial comments in this proceeding, the Commission should establish the authoritative source of coverage data that will govern price cap carriers' elections to accept 2013 CAF Phase I incremental support at least 90 days prior to the acceptance deadline,

¹⁰ *2013 CAF Phase I Incremental Support Further Notice*, at ¶ 14 (emphasis supplied).

¹¹ *Connect America Fund*, WC Docket No. 10-90, Order, DA 12-1155, 27 FCC Rcd 8141 (2012), at ¶ 7.

as it did in 2012. ACS believes that this 90 day window is exceedingly short to enable carriers to make such an election; the Commission should not compound these challenges by altering the coverage data after its offers of CAF Phase I incremental support are announced.

* * * * *

For the foregoing reasons, ACS hereby requests that the Commission (1) publish an electronic list of census blocks and permit a further opportunity for commenters to make a meaningful analysis of competitors' claims to serve the areas so identified; (2) dovetail its census block challenge process with NTIA's ongoing procedures for updating the National Broadband Map, rather than establishing a parallel update process that will inevitably create conflicting data; and (3) clarify that any changes it may adopt in this proceeding to reduce the list of unserved census blocks will apply only prospectively, while carriers may use broadband deployment in census blocks added to the list to meet existing 2012 CAF Phase I incremental support and 2013 CAF Phase I frozen support broadband obligations.

Respectfully submitted,

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